

**FILED**

**NOV 26 2007**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

IVAN LEE MATTHEWS,

Plaintiff - Appellant,

v.

EDWARD S. ALAMEIDA, JR., Director,  
J. Martinez, J. Hernandez, R. Euerra, B.  
Streeter, H. Pope, Alafa,

Defendant - Appellee.

No. 06-15969

D.C. No. CV-05-00016-  
OWW/SMS

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
Oliver W. Wanger, District Judge, Presiding

Submitted November 13, 2007<sup>\*\*</sup>

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

California state prisoner Ivan Lee Matthews appeals pro se from the district court's judgment dismissing without prejudice his action alleging defendants

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violated 42 U.S.C. § 1983 by denying him access to courts. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal for failure to state a claim under 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we review for abuse of discretion a district court's dismissal for failure to comply with court orders and procedural rules, *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). We affirm.

The district court properly concluded Matthews' January 4, 2005 complaint failed to state a claim that defendants violated his right of access to courts, because Matthews failed to allege an actual injury caused by defendants' conduct. *See Lewis v. Casey*, 518 U.S. 343, 351-52 (1996).

The district court also did not abuse its discretion in dismissing this action without prejudice to refile, because Matthews failed to comply with the court's instructions to file an amended complaint. *See Ferdik*, 963 F.2d at 1260-61.

**AFFIRMED.**